

Spring 1991

## American Family Law in the Age of AIDS: An Annotated Bibliography, 24 J. Marshall L. Rev. 625 (1991)

John R. Austin

Rebecca S. Trammell

Follow this and additional works at: <https://repository.law.uic.edu/lawreview>



Part of the [Estates and Trusts Commons](#), [Family Law Commons](#), [Health Law and Policy Commons](#), [Legal Writing and Research Commons](#), [Legislation Commons](#), [Litigation Commons](#), [Medical Jurisprudence Commons](#), and the [State and Local Government Law Commons](#)

---

### Recommended Citation

John R. Austin & Rebecca S. Trammell, American Family Law in the Age of AIDS: An Annotated Bibliography, 24 J. Marshall L. Rev. 625 (1991)

<https://repository.law.uic.edu/lawreview/vol24/iss3/4>

This Article is brought to you for free and open access by UIC Law Open Access Repository. It has been accepted for inclusion in UIC Law Review by an authorized administrator of UIC Law Open Access Repository. For more information, please contact [repository@jmls.edu](mailto:repository@jmls.edu).

# BIBLIOGRAPHY

## AMERICAN FAMILY LAW IN THE AGE OF AIDS: AN ANNOTATED BIBLIOGRAPHY

JOHN R. AUSTIN\*  
AND REBECCA S. TRAMMELL\*\*

### INTRODUCTION

AIDS, or Acquired Immune Deficiency Syndrome, is a fatal disease caused by the Human Immunodeficiency Virus, HIV.<sup>1</sup> As of August 1, 1988, 69,366 AIDS cases had been reported to the Centers for Disease Control.<sup>2</sup> Of that number, more than 39,000 patients had died.<sup>3</sup> A current estimate of the prevalence of HIV infection in the United States alone is 945,000 to 1.4 million people.<sup>4</sup>

HIV is transmitted principally through sexual activity.<sup>5</sup> Sexual activity is intimately associated with family life. The effects of the AIDS epidemic on the family may be profound.<sup>6</sup>

Those researching AIDS and family law need to familiarize themselves with the secondary sources on the subject and with the materials that are especially useful in providing coverage of the rap-

---

\* J.D., DePaul University; M.L.S., Indiana University. Associate Professor, University of Nebraska College of Law Library.

\*\* J.D., University of Denver; M.L.S., Rosary College. Assistant Professor, University of Nebraska College of Law Library.

1. See E. NICHOLS, MOBILIZING AGAINST AIDS 93-111 (rev. & enl. ed. 1989) for a description of the search for the cause of AIDS and the identification of HIV as the antigen.

2. Centers for Disease Control, *Quarterly Report to the Domestic Policy Council on the Prevalence and Rate of Spread of HIV and AIDS in the United States*, 37 MORBIDITY & MORTALITY WEEKLY REP. 223-26 (1988).

3. *Id.*

4. Centers for Disease Control, *Human Immunodeficiency Virus Infection in the United States: a Review of Current Knowledge*, 36 MORBIDITY & MORTALITY WEEKLY REP. 1-48 (Supp. 6 1987).

5. E. NICHOLS, *supra* note 1, at 26-33.

6. One legal commentator succinctly stated the relationship between AIDS, sex, and family life: "[I]t is possible to conclude that, because AIDS affects sex, an essential ingredient of family life, AIDS will have an immense effect upon the character, formation, and quality of family life long after a cure has been found." O'Brien, *AIDS: Perspective on the American Family*, 34 VILL. L. REV. 209, 221 (1989).

idly evolving case and statutory law. This bibliography is an attempt to assist in that objective.

The bibliography is divided into two parts. Part I identifies and annotates those articles and sections of books that describe the implications of AIDS/HIV for family law jurisprudence in the United States. (Materials from newspapers and popular books and magazines have been excluded.) Part II describes on-line databases, bibliographies and current awareness tools such as looseleaf services, periodicals and newspapers that could be useful to the legal researcher in keeping abreast of new developments.

For purposes of this bibliography, family law is broadly defined to include the following subjects: marriage, pre-marital HIV antibody testing, divorce, child custody and visitation, estate planning, adoption, artificial insemination, tort liability for transmission of HIV to spouses or other sexual partners (including the duty of physicians to warn spouses or known sexual partners of HIV-infected patients), liability for perinatal HIV transmission, the rights of parents to choose appropriate HIV education for their children, discrimination against the families of HIV-infected individuals and the implications of HIV for prison conjugal visitation programs. Because HIV so disproportionately affects the Gay community,<sup>7</sup> the authors considered it appropriate to include materials that would have relevance for non-traditional families—hence the inclusion of materials on liability for infecting sexual partners other than the spouse. Subjects excluded even though of tremendous direct significance to the family include discrimination against AIDS victims in employment, housing, insurance and attending school.

To maximize the usefulness of the books and articles portion of the bibliography, the materials are classified under specific subject headings. Some citations appear under more than one category. The subject headings used are:

**Adoption** — This category includes materials on HIV-testing and placement of children in either adoptive or foster homes.

**Artificial Insemination** — This subject heading refers to the legal implications of AIDS for artificial insemination practice.

**Child Custody** — Materials included under this category are on the implications of AIDS for child custody and visitation and HIV antibody-testing for such purposes. (Additional relevant materials may be found under the headings "Divorce," "General" and "HIV antibody-testing.")

**Conjugal Visits** — This heading includes materials on the impact of AIDS on prison spousal visitation programs.

---

7. Homosexual or bisexual men initially made up 71% of all AIDS cases — this pattern continues today. E. NICHOLS, *supra* note 1, at 13.

**Divorce** — This category contains articles that deal with the implications of AIDS for divorce generally. (Additional relevant materials may be found under the heading "General.")

**Duty to Warn** — This subject includes materials on the State's and the individual physician's duty to warn the spouse or sexual partner of HIV-positive patients.

**Estate Planning** — This category includes articles that deal with any aspect of estate planning, management of assets or health care, wills or probate for AIDS victims.

**General** — This heading refers to materials that deal with AIDS and family law generally.

**HIV Antibody-testing** — This category includes articles on pre-marital testing and the use of testing in child custody disputes. Some of the many articles that provide general background on the medical and legal aspects of HIV antibody-testing are included as well. (Additional relevant materials may be found under the heading "Child Custody.")

**Marriage** — This category includes articles that deal with the implications of HIV-infection for the right to marry. Contexts include the right to marry in the Catholic Church and Gay marriages. (Additional relevant materials may be found under the heading "HIV Antibody-Testing.")

**Miscellaneous** — This heading includes materials that would be of interest because they provide background or tangentially relevant information. Examples of the latter include materials on the transmissibility of HIV among family or household members, the medico-ethical issues surrounding AIDS as they affect the family, the right of parents to determine what would be appropriate AIDS education for their children, and the legal implications of AIDS for the family or household members of the victim.

**Tort Liability** — This category includes articles on tort liability for transmission of HIV to spouses or other sexual partners and liability for perinatal transmission.

## PART I. ARTICLES AND BOOKS

### *Adoption*

1. Garfinkel & Goldsmith, *Child Welfare Agencies: Possible Bases of Liability for Placement of Children with AIDS in Adoptive or Foster Homes*, 10 J. LEGAL MED. 143 (1989). The authors examine the relationship between the agency, the child and the adoptive family, the duty owed as a function of this relationship, the attendant standard of care, the possible causes of action that could be brought against the agency, the possible defenses and the confidentiality issues involved.

2. Glen, *Parents with AIDS, Children with AIDS: The Law Is Only Now Starting to Catch Up With this Family Nightmare*, 29 JUDGES' J., Spring 1990, at 2. The author considers the issues involved in pre-marital testing, the special considerations that must be brought to bear in divorce, custody and visitation litigation, and the effect of seropositivity on a child that is to be placed for adoption or foster care.

3. K. GLEN, *Is AIDS Grounds for Divorce or for Child Custody Loss?*, in AIDS AND THE COURTS ch. 14.1 (C. Abt & K. Hardy eds. 1990). The author looks at the implications of HIV-infection in a marital dissolution from the viewpoint of both a judge and professor of family law. The chapter provides some insight into the thought processes of family law judges who must consider AIDS issues. Specific issues examined are HIV-antibody testing of either a spouse or of children who are to be adopted or placed in foster care and the implications of infection for marital fault, annulment, property division and child custody.

#### *Artificial Insemination*

1. Wadlington, *Baby M: Catalyst for Family Law Reform?*, 5 J. CONTEMP. HEALTH L. & POL'Y. 1 (1989). The author examines the effects of social, demographic, legal, medical and scientific change on heterologous artificial insemination practices. He devotes attention to the implications of AIDS for record-keeping practices and concludes that the epidemic makes it inadvisable to maintain the practice of anonymous record-keeping for sperm donors.

#### *Child Custody*

1. A. ACHTENBERG, AIDS AND CHILD CUSTODY: A GUIDE TO ADVOCACY (2d ed. 1989). In a practice-oriented discussion, the author describes the disease and its diagnosis, testing for and transmissibility of HIV, court-ordered HIV testing, the implications of HIV infection or AIDS, childhood bereavement and the underlying issue of the parent's homosexuality. The author includes an appendix with sample memorandum and sworn statements. (Published by the National Center for Lesbian Rights, 1663 Mission Street, 5th floor, San Francisco, CA 94103; (415) 621-0674.)

2. A. ACHTENBERG, *AIDS and Child Custody: Parents' Rights and AIDS Testing*, in AIDS AND THE COURTS ch. 14.3 (C. Abt & K. Hardy eds. 1990). The author offers practical advice about obtaining custody for an HIV-infected parent and about the implications of mandatory or voluntary HIV-antibody testing. The chapter is based on the author's book AIDS AND CHILD CUSTODY: A GUIDE TO ADVOCACY (2d ed. 1989).

3. Glen, *Parents with AIDS, Children with AIDS: The Law Is Only Now Starting to Catch Up With this Family Nightmare*, 29 JUDGES' J., Spring 1990, at 2. See *supra* Adoption, number 2 for annotation.
4. K. GLEN, *Is AIDS Grounds for Divorce or for Child Custody Loss?*, in AIDS AND THE COURTS ch. 14.1 (C. Abt & K. Hardy eds. 1990). See *supra* Adoption, number 3 for annotation.
5. D. HITCHENS, *Family Law*, in NATIONAL LAWYERS GUILD ANTI-SEXISM COMMITTEE OF SAN FRANCISCO BAY AREA CHAPTER, SEXUAL ORIENTATION AND THE LAW ch. 1 (1990). The author presents a practice-oriented chapter on family law as it relates to Gay people in general. Particular attention is paid to the implications of AIDS for child custody disputes.
6. S. MILLER, *Judging the Best Interests of the Child in AIDS-Impacted Divorce*, in AIDS AND THE COURTS ch. 14.2 (C. Abt & K. Clark eds. 1990). Written from the perspective of the author's experiences as an appellate judge, the article examines AIDS-related custody issues through analysis of actual cases brought to the author on appeal. The article is especially valuable for the advice it provides on building a trial record that will survive an appeal.
7. Rivera, *Lawyers, Clients and AIDS: Some Notes from the Trenches*, 49 OHIO ST. L.J. 883 (1989). The author provides a detailed, practical guide for dealing with all legal problems that devolve from HIV infection in the areas of estate planning, employment and divorce and custody.
8. Schepard, *AIDS and Divorce*, 23 FAM. L.Q. 1 (1989). Through the use of hypotheticals, the author explores the significance of seropositivity in establishing fault and in determining custody and visitation rights. Some attention is also paid to the special responsibilities of counsel, alternative dispute resolution, and the need for legislative change.
9. A. ZAREMBKA, *Child Custody and AIDS*, in NATIONAL GAY RIGHTS ADVOCATES & NATIONAL LAWYERS GUILD AIDS NETWORK, AIDS PRACTICE MANUAL: A LEGAL AND EDUCATIONAL GUIDE ch. X (2d ed. 1988). In this short chapter, the author reviews court decisions relating to AIDS and custody and offers "strategy suggestions" for counsel representing HIV-positive parents.
10. Comment, *The Effect of AIDS on Child Custody Determinations*, 23 GONZ. L. REV. 167 (1987/88). The article provides an overview of the medical implications of HIV-infection, general standards that have been used by the courts to determine custody and/or terminate parental rights, the additional factors that courts have considered when a petitioning parent has a debilitating disease and the implications of homosexuality for custody determinations. It then applies this body of law to custody determinations in which

the HIV-status of a parent is or could be an issue. Particular attention is paid to court-ordered HIV antibody-testing.

11. Note, *Public Hysteria, Private Conflict: Child Custody and Visitation Disputes Involving an HIV Infected Parent*, 63 N.Y.U. L. REV. 1092 (1988). "This Note argues that a court's use of a parent's HIV infection as per se evidence of parental unfitness contravenes the best interests standard. It concludes that unless judges perform a factually specific examination of how a particular parent's HIV infection affects a child, the child's best interests cannot be served." *Id.* at 1097.

12. Note, *Visitation Rights of an AIDS Infected Parent*, 27 J. FAM. L. 715 (1988-89). The author examines the medical, legal and psychological issues involved in reaching a decision regarding visitation by a non-custodial, HIV-positive parent and concludes that a supervised, regulated visitation scheme is probably what is in the child's best interest.

#### *Conjugal Visits*

1. Note, *Prisoners with AIDS: Constitutional and Statutory Rights Implicated in Family Visitation Programs*, 31 B.C.L. REV. 967 (1990). This note discusses the constitutional and statutory issues raised in relation to limiting the eligibility of AIDS-infected inmates to participate in family visitation programs. The author examines *Doe v. Coughlin*, 41 N.Y.2d 48, 518 N.E.2d 536 (1987) and concludes that the court applied an incorrect standard of review in upholding prison officials' denial of an HIV-positive prisoner's request for conjugal visits. The author maintains that "[c]onjugal visits implicate the fundamental right to marital privacy, which deserves the highest level of judicial scrutiny. By applying strict scrutiny, courts should strike down prison regulations denying AIDS-infected prisoners from participating . . . because prison officials are unable to demonstrate any compelling state interest for such regulations." Note, *supra* at 1024.

2. Note, *Rethinking Conjugal Visitation in Light of the AIDS Crisis*, 15 NEW ENG. J. CRIM. & CIV. CONFINEMENT 121 (1989). The author advances the position that the AIDS crisis makes conjugal visitation programs more important now than ever before because they may serve to reduce promiscuous homosexual behavior in prisons and, therefore, reduce the risk of HIV-transmission. More "traditional" rationales for permitting conjugal visits are also described and reasons against such programs are refuted.

*Divorce*

1. Glen, *Parents with AIDS, Children with AIDS: The Law Is Only Now Starting to Catch Up With this Family Nightmare*, 29 JUDGES' J., Spring 1990, at 2. See *supra* Adoption, number 2 for annotation.
2. K. GLEN, *Is AIDS Grounds for Divorce or for Child Custody Loss?*, in AIDS AND THE COURTS ch. 14.1 (C. Abt & K. Hardy eds. 1990). See *supra* Adoption, number 3 for annotation.
3. Hermann & DeWolfe, *Legal Counseling in Family Practice, Medicolegal Aspects: When AIDS Patients Face Divorce*, 22 MED. ASPECTS HUM. SEXUALITY, July 1988, at 87. Although written for physicians, this short article may be useful to attorneys who would like a concise overview of the implications of HIV infection for all aspects of divorce, including property settlements, alimony payments, establishing grounds, etc.
4. Rivera, *Lawyers, Clients and AIDS: Some Notes from the Trenches*, 49 OHIO ST. L.J. 883 (1989). See *supra* Child Custody, number 7 for annotation.
5. Rothman, Nassar & Schepard, *AIDS and New York Matrimonial Law*, 60 N.Y. ST. B.J., Nov. 1988, at 7. The authors examine the implications of HIV-infection for establishing grounds for marital dissolution, distributing assets and determining child custody. The issue of involuntary HIV-antibody testing is raised and disapproved for its prejudicial effect. Some attention is also paid to procedure in AIDS-impacted divorce cases and the special responsibilities of the courts.
6. Schepard, *AIDS and Divorce*, 23 FAM. L.Q. 1 (1989). See *supra* Child Custody, number 8 for annotation.

*Duty to Warn*

1. American Medical Association, Council on Ethical and Judicial Affairs, *Ethical Issues Involved in the Growing AIDS Crisis*, 259 J. A.M.A. 1360 (1988). This article outlines the American Medical Association's position on many medico-ethical issues surrounding AIDS, including the physician's duty to warn third parties.
2. Annas & Davison, *Medicolegal Dilemma: the HIV-positive Patient Who Won't Tell the Spouse*, 21 MED. ASPECTS HUM. SEXUALITY, Mar. 1987, at 16. This one-page article, written for physicians, advises its readers that they have a legal duty to inform the spouse of an HIV-positive patient if it appears likely that the spouse will not be otherwise informed.
3. M. BARNES, *Confidentiality*, in AIDS LEGAL GUIDE ch. 4 (A. Rubinfeld ed., 2d ed. 1987). The author's chapter in this volume published by Lambda Legal Defense and Education Fund examines all aspects of disclosure of AIDS-related data. The specific areas

discussed include AIDS and HIV reporting requirements, sexual contact tracing, disclosure of AIDS-related information in court proceedings, statutory and common law protection of AIDS-related information and the physician's duty to warn a patient's steady sexual partners.

4. R. BELITSKY, & R. SOLOMON, *Doctors and Patients: Responsibilities in a Confidential Relationship*, in AIDS AND THE LAW: A GUIDE FOR THE PUBLIC ch. 14 (H. Dalton & S. Burris eds. 1987). The authors examine the physician's duty to warn associates of the HIV-positive patient and conclude that physicians probably do have a duty to warn known sexual partners and intravenous needle sharers, but are not under a similar obligation to family members with whom the patient does not have sexual contact.

5. W. DORNETTE, *Confidentiality Issues*, in AIDS AND THE LAW ch. 15 (W. Dornette ed. 1987). The duty of a physician to disclose a patient's HIV-antibody status is discussed in various contexts.

6. Hermann & Gagliano, *AIDS, Therapeutic Confidentiality, and Warning Third Parties*, 48 MD. L. REV. 55 (1989). The authors explore the question of whether or not a psychotherapist is under a legal duty to warn a client's spouse or known sexual partner(s) of the client's HIV infection if it appears likely that the client will not do so. They conclude that, in the absence of legislation addressing this issue, therapists "must depend on their ethical consciences to determine which course of action to follow." *Id.* at 76.

7. Labowitz, *Beyond Tarasoff: AIDS and the Obligation to Breach Confidentiality*, 9 ST. LOUIS U. PUB. L. REV. 495 (1990). The author examines the reasoning of *Tarasoff v. Regents of the University of California*, 17 Cal.3d 425, 551 P.2d 334 (1976) and its progeny, the positions of the U.S. Public Health Service, American Medical Association and the American Hospital Association regarding a physician's duty to warn known sexual partners of HIV-infected patients and concludes that health care providers do have an obligation to warn those at risk.

8. Centers for Disease Control, *Perspectives in Disease Prevention and Health Promotion: Public Health Service Guidelines for Counseling and Antibody Testing to Prevent HIV Infection and AIDS*, 36 MORBIDITY & MORTALITY WEEKLY REP. 509 (1987). The Guidelines of the U.S. Public Health Service include the areas of interpretation of HIV antibody test results, counseling and testing for HIV antibodies, partner notification and contact tracing, confidentiality and anti-discrimination considerations.

9. Stroud, *An Indiana Doctor's Duty to Warn Non-Patients at Risk of HIV Infection from an AIDS Patient*, 22 IND. L. REV. 587 (1989). Utilizing a negligence analysis, the author concludes that there is a duty to warn third parties who are at risk of becoming infected by a

patient. He further concludes that the enactment of statutes requiring mandatory reporting to a state agency is not an adequate substitute for a doctor personally warning a non-patient who is at risk of becoming infected by a patient.

10. Swartz, *Is There a Duty to Warn: Does Safety Ever Warrant Releasing Confidential Information About HIV-Infected People?*, 17 HUM. RTS., Spring 1990, at 40. After summarizing the issues, the American Medical Association guidelines, and state and federal statutes that deal with the physician's duty to warn family members or sexual partners of an HIV-positive patient, the author concludes that "making notification responsibilities discretionary rather than mandatory is probably the most acceptable compromise that can be reached at this point." *Id.* at 56.

11. Vernon, Wolf, Spencer, Hoffman, Perry, Brokopp, Wykoff, Hollis, Leonard, Quiller, Heath, Riley, Cader, & Miller, *Partner Notification for Preventing Human Immunodeficiency Virus (HIV) Infection — Colorado, Idaho, South Carolina, Virginia*, 260 J. A.M.A. 613 (1988). This article offers descriptions of the partner notification programs used in the above listed states and offers general information about programs that exist nationwide.

12. Wein, *Duty to Warn*, 261 J. A.M.A. 1355 (1989). This short paper explores the issues with which a physician must contend when he/she has a seropositive patient who has a sexual partner or spouse who is ignorant of the patient's seropositivity. The author concludes that the ultimate resolution of the dilemma must rest with legislatures.

13. Comment, *AIDS: Balancing the Physician's Duty to Warn and Confidentiality Concerns*, 38 EMORY L.J. 279 (1989). The author concludes that state and local health department contact tracing programs are the best means of enabling the physician to fulfill his/her duty to warn third parties at risk of HIV infection while safeguarding the patient's right to confidentiality.

14. Comment, *Doctor-Patient Confidentiality versus Duty to Warn in the Context of AIDS Patients and their Partners*, 47 MD. L. REV. 675 (1988). Through the use of a hypothetical, the author examines the conflicting duties of maintaining confidentiality and warning sexual partners and concludes that the duty to warn is unclear. The author discusses the provisions of the Report of the Governor of Maryland's Task Force on Acquired Immune Deficiency Syndrome which would require disclosure by the physician, but fails to deal with the possible legal consequences of such disclosure.

15. Note, *Between a Rock and a Hard Place: AIDS and the Conflicting Physician's Duties of Preventing Disease Transmission and Safeguarding Confidentiality*, 76 GEO. L.J. 169 (1987). The author, an osteopathic physician, concludes that physicians do have a duty

to warn the spouse and known sexual partners of an HIV-positive patient if it appears likely that the patient will not do so.

16. Note, *The Conflict Between a Doctor's Duty to Warn a Patient's Sexual Partner that the Patient has AIDS and a Doctor's Duty to Maintain Patient Confidentiality*, 45 WASH. & LEE L. REV. 355 (1988). The author concludes that the conflict between the physician's duty to warn the spouse or other known sexual partner of an HIV-infected patient and the physician's duty to safeguard the patient's right to confidentiality can only be resolved through appropriate federal and state legislation.

17. Note, *To Disclose or Not to Disclose the Presence of AIDS: Resolving the Confidential Concerns of Patients, Physicians and Third Parties*, 23 VAL. U.L. REV. 341 (1989). The author examines the nature of the confidential relationship between physician and patient and the recognized exceptions to confidentiality. He then balances the competing concerns of AIDS victims and third parties, concludes that the physician's duty to warn is unclear and urges state legislatures to enact statutory guidelines for physicians. He offers a model statute that would mandate disclosure within well-defined parameters.

#### *Estate Planning*

1. Dintzer, *The Effect of Acquired Immune Deficiency Syndrome (AIDS) on Testamentary Capacity*, 8 PROB. L.J. 157 (1988). The author provides an historical overview of the indicia of testamentary capacity, examines the implications of medical evidence of the effects of AIDS on the brain and offers practical advice to lawyers and judges who deal with testators who suffer from AIDS.

2. S. HAWKINS, *Representing Ill Clients*, in NATIONAL LAWYERS GUILD ANTI-SEXISM COMMITTEE OF SAN FRANCISCO BAY AREA CHAPTER, *SEXUAL ORIENTATION AND THE LAW* ch. 13 (1990). The author discusses health, financial and estate planning concerns of AIDS victims and how to obtain public benefits.

3. D. Hermann, *Estate Planning*, in LEGAL ASPECTS OF AIDS ch. 5 (D. Hermann & W. Schurgin eds. 1991). The chapter offers discussion and sample forms for each of the following areas: wills and will substitutes, living wills, powers of attorney and conservatorships.

4. Jamail, Watkins & Pargaman, *Ethics and the Terminally Ill Client*, 52 TEX. B.J. 212 (1989). This article focuses on the implications of AIDS for estate planning. Specific areas discussed are potential conflicts of interest and fiduciary responsibilities for attorneys who prepare wills for terminally ill clients, and special considerations that come into play when testators are marginally competent.

5. Johanson & Bay, *Estate Planning for the Client with AIDS*, 52 TEX. B.J. 217 (1989). The authors focus on the following areas of concern: taxes; wills and will contests; the funded revocable trust; lifetime gifts; guardianships and powers of attorney; the living will; health care powers of attorney and pre-planning for interment or cremation.
6. Mock & Tobin, *Estate Planning for Clients with AIDS*, 7 ST. LOUIS U.L.J. 177 (1988). In this practical article, the authors advise attorneys how to protect clients against will challenges based on lack of mental capacity or undue influence and how to insure that a client's wishes regarding the disposition of his/her remains are honored. They also discuss various non-testamentary methods of property transfer such as joint tenancy arrangements, inter-vivos trusts, life insurance policies and gifts and how to use durable powers of attorney to manage the clients's assets if he/she becomes incapacitated before death.
7. Parry, *Life Services Planning for Persons with AIDS-Related Mental Illnesses*, 13 MENTAL & PHYSICAL DISAB. L. REP. 82 (1989). The author discusses the following: the use of powers of attorney, living wills and durable powers of attorney for competent individuals; the appointment of guardians and civil commitment of the legally incompetent; issues that should be addressed regarding the questionably competent; obtaining public benefits and insurance; and providing financial and estate planning services.
8. Rivera, *Lawyers, Clients and AIDS: Some Notes from the Trenches*, 49 OHIO ST. L.J. 883 (1989). See *supra* Child Custody, number 7 for annotation.
9. R. Rivera, *The Legal Issues of Death and Dying*, in M. CLOSEN, D. HERMANN, P. HORNE, S. ISAACMAN, R. JARVIS, A. LEONARD, R. RIVERA, M. SCHERZER, G. SCHULTZ, AND M. WOJCIK, AIDS: CASES AND MATERIALS ch. 8 (1989). The author provides an overview of the issues involved in the use of medical powers of attorney and living wills, the implications of suicide, problems that can occur regarding honoring the client's wishes concerning the disposition of the body and the funeral, balancing the client's right to privacy versus the public's right to examine the contents of public records when there are requests to examine the death certificate, issues that may arise in a will contest and obtaining death-related benefits.
10. Schlesinger & Barkhorn, *Protecting the Plans of AIDS Victims: What Can the AIDS Victim Do to Minimize the Chances of a Successful Will Contest and Preserve His Testamentary Plans From Being Destroyed?*, 128 TR. & EST., Aug. 1989, at 47. The authors describe will drafting techniques, with special emphasis on the use of in terrorem clauses and non-testamentary methods such as adop-

tion, lifetime gifts, trusts, and life insurance and pension plan beneficiary designations.

11. H. WEISS, *Estate Planning*, in AIDS LEGAL GUIDE ch. 9 (A. Rubinfeld ed., 2d ed. 1987). The author presents a practice-oriented discussion of the following issues: proof of testamentary capacity of the AIDS victim; protecting the will against challenges based on undue influence; and aspects of "pre-mortem" estate planning such as joint ownership, insurance and pensions, asset review, housekeeping trusts, powers of appointment, conservators and living wills.

### General

1. American Bar Association, AIDS Coordinating Committee, *AIDS: the Legal Issues; Discussion Draft* 217-26 (1988). Chapter Fifteen provides an overview of the salient issues raised in divorce and custody matters, to wit: the impact of seropositivity where fault is at issue; the duty to test and to disclose the results; the implications of HIV infection for spousal support; and the implications of seropositivity for child custody determinations.

2. American Bar Association, AIDS Coordinating Committee, *American Bar Association Policy and Report on AIDS*, 21 U. TOL. L. REV. 9 (1989). A report of the AIDS Coordinating Committee and recommendations adopted by the A.B.A. in August, 1989 are included. The recommendations constitute A.B.A. policy on AIDS and deal with virtually all aspects of the crisis including the duty to warn sexual partners and the implications of AIDS for divorce law. (Note that an amendment to the section on partner notification was adopted by the A.B.A. in February 1990).

3. M. CLOSEN, *Family Law Issues*, in M. CLOSEN, D. HERMANN, P. HORNE, S. ISAACMAN, R. JARVIS, A. LEONARD, R. RIVERA, M. SCHERZER, G. SCHULTZ, AND M. WOJCIK, *AIDS: CASES AND MATERIALS* ch. 7 (1989). This first case book on AIDS offers a chapter on family law that includes reprints of articles from the medical and sociological literature and provides a good overview of the area.

4. M. CLOSEN, *Family Law*, in LEGAL ASPECTS OF AIDS ch. 4 (D. Hermann & W. Schurgin eds. 1991). This comprehensive chapter is divided into three major areas: "Marriage and Cohabitation," which offers a discussion of the impact of AIDS on traditional and nontraditional living arrangements, pre-marital testing, the duty of infected individuals and their physicians to disclose HIV status to sexual partners, confidentiality of AIDS patient information, and conjugal visits; "Childbearing and Childrearing," in which the impact of HIV on decisions to have children, Gay parenting, perinatal transmission, artificial insemination, adoption, children and AIDS and liability of parents for transmitting HIV to their children are

discussed; and "Separation and Divorce," which covers such issues as divorce, annulment, child custody and visitation.

5. R. JARVIS, M. CLOSEN, D. HERMANN & A. LEONARD, *AIDS LAW IN A NUTSHELL* (1991). This entry in West Publishing Company's Nutshell Series provides a highly readable over-view of AIDS law in general. Of particular interest to those researching AIDS and family law issues are chapter six, *Family Law*, which includes a discussion of estate planning as well as divorce and child custody, and chapter ten, *Tort Law*.

6. D. HITCHENS, *Family Law*, in NATIONAL LAWYERS GUILD ANTI-SEXISM COMMITTEE OF SAN FRANCISCO BAY AREA CHAPTER, *SEXUAL ORIENTATION AND THE LAW* ch. 1 (1990). See *supra* *Child Custody*, number 5 for annotation.

7. Kydd, *AIDS and Family Law*, 44 WASH. ST. B. NEWS, Mar. 1990, at 9. This short article reviews the Association of Family and Conciliation Courts Policy on AIDS (adopted May, 1989).

8. R. O'BRIEN, *AIDS and the Family*, in AIDS AND THE LAW ch. 6 (W. Dornette ed. 1987). The chapter offers a discussion of the following: economic issues which affect the family such as employment, insurance, living wills, powers of attorney, testamentary issues, pensions and social security, and non-marital contracts; marital issues such as annulments, divorce, and inter-spousal torts; and "children's issues" such as custody, visitation, child abuse and termination of parental rights and problems in school.

9. O'Brien, *AIDS: Perspective on the American Family*, 34 VILL. L. REV. 209 (1989). This is an expanded and updated version of the author's chapter in AIDS AND THE LAW. See *supra* *General*, number 8 for annotation.

10. Rothman, Nassar & Schepard, *AIDS and New York Matrimonial Law*, 60 N.Y. ST. B.J., Nov. 1988, at 7. See *supra* *Divorce*, number 5 for annotation.

### *HIV Antibody Testing*

1. Bayer, Levine & Wolf, *HIV Anti-body Screening: An Ethical Framework for Evaluating Proposed Programs*, 256 J. A.M.A. 1768 (1986). This is a comprehensive article that discusses testing in all settings.

2. C. BERNARD & A. RUBENFELD, *Antibody Testing*, in NATIONAL LAWYERS GUILD ANTI-SEXISM COMMITTEE OF SAN FRANCISCO BAY AREA CHAPTER, *SEXUAL ORIENTATION AND THE LAW* ch. 14 (1990). The author examines testing procedures, interpretation and confidentiality of results and coerced testing in the areas of screening, blood donations, workplace screening, insurance and family life. The family life section of the chapter examines the screening of

marriage license applicants, women who may bear children, and the use of testing in child custody and visitation litigation.

3. Cleary, Barry, Mayer, Brandt, Gostin, & Fineberg, *Compulsory Premarital Screening for the Human Immunodeficiency Virus*, 258 J. A.M.A. 1757 (1987). The authors examined the effectiveness of a mandatory premarital screening program as a means of limiting the spread of HIV infection. They concluded that the costs for maintaining such a program by far outweighed any benefits that might be realized. Medical, economic and legal implications of such programs are discussed.

4. Closen, Connor, Kaufman & Wojcik, *AIDS: Testing Democracy — Irrational Responses to the Public Health Crisis and the Need for Privacy in Serologic Testing*, 19 J. MARSHALL L. REV. 835 (1986). The article provides general background on HIV-testing, both medical and legal, and discusses the implications for various substantive areas such as child custody, visitation and premarital testing.

5. Glen, *Parents with AIDS, Children with AIDS: The Law Is Only Now Starting to Catch Up With this Family Nightmare*, 29 JUDGES' J., Spring 1990, at 2. See *supra* Adoption, number 2 for annotation.

6. Goodman, *In Sickness or in Health: The Right to Marry and the Case of HIV Antibody Testing*, 38 DE PAUL L. REV. 87 (1988). The author analyzes the historical development of the right to marry and the implications of that right for the constitutionality of mandatory premarital HIV antibody testing.

7. Gostin, Curran, & Clark, *The Case Against Compulsory Casefinding in Controlling AIDS — Testing, Screening and Reporting*, 12 AM.J.L. & MED. 7 (1986). The authors propose criteria for evaluating compulsory testing and screening programs. They conclude that voluntary identification, education, and counseling of infected persons is the most effective means of encouraging the behavioral changes that are necessary to halt the spread of AIDS. Four pages are devoted to the special issues associated with pre-marital HIV testing.

8. D. Hermann, *Public Health Law*, in LEGAL ASPECTS OF AIDS ch. 8 (D. Hermann & W. Schurgin eds. 1991). Parts III, IV, and V of this chapter offer a discussion of all aspects of HIV testing, including pre-marital testing, counseling, AIDS-related reporting, contact tracing and confidentiality.

9. Comment, *The Constitutional Implications of Mandatory Testing for Acquired Immunodeficiency Syndrome — AIDS*, 37 EMORY L.J. 217 (1988). This comment examines the constitutional constraints that the government must overcome in order to institute a testing program.

10. Note, *For Better or For Worse? Mandatory AIDS Testing for Marriage License Applicants*, 38 WASH. U. J. URB. & CONTEMP. L.

159 (1990). The author examines the constitutional ramifications of the mandatory testing issue, particularly due process and equal protection, the right to privacy and less burdensome alternatives. The conclusion is reached that the burdens that mandatory testing imposes on the individual's rights to privacy and to marry far outweigh any public health benefits derived by the state.

### *Marriage*

1. Coleman, *Can a Person with AIDS Marry in the Catholic Church?*, 49 JURIST 258 (1989). The author concludes that the questions regarding marriage for an HIV-infected individual are moral rather than canonical, and that the propriety of marriage must be determined by the diocesan bishop on a case-by-case basis.

2. Lewis, *From this Day Forward: A Feminine Moral Discourse on Homosexual Marriage*, 97 YALE L.J. 1783 (1988). The author advocates the legalization of homosexual marriages and uses feminist theory to explain why traditional equal protection analysis fails to provide a positive result. Among the many benefits that might be realized is the fostering of the public health interest in encouraging long-term monogamous relationships that reduce the threat of sexually transmitting the HIV virus.

### *Miscellaneous*

1. American Medical Association, Council on Ethical and Judicial Affairs, *Ethical Issues Involved in the Growing AIDS Crisis*, 259 J.A.M.A. 1360 (1988). See *supra* *Duty to Warn*, number 1 for annotation.

2. Boyle, *AIDS Education and Parental Rights*, 7 ST. LOUIS U. PUB. L. REV. 45 (1988). The author examines the conflicting claims of parental rights advocates who do not want their children to be exposed to AIDS education and advocates of mandatory AIDS education. Various theories of parental rights are discussed in some detail. The conclusion is reached that "parents have no 'right' to stand aloof, and to ask others to stand aloof, in AIDS sex education . . . [but] can demand some control over AIDS sex education and the manner in which it is presented." *Id.* at 54.

3. Fischl, Dickinson, Scott, Klimas, Fletcher & Parks, *Evaluation of Heterosexual Partners, Children and Household Contacts of Adults with AIDS*, 257 J. A.M.A. 640 (1987). The authors conclude that the risk of transmission of HIV to spouses is high but the risk of transmission to children and other household members is statistically insignificant. The study gives strong support to the theory that sexual contact is required to spread HIV infection in a household setting.

4. Friedland, Saltzman, Rogers, Kahl, Lesser, Mayers & Klein, *Lack of Transmission of HTLV-III/LAV Infection to Household Contacts of Patients with AIDS or AIDS-related Complex with Oral Candidiasis*, 314 NEW ENG. J. MED. 344 (1986). The authors conducted a study of 101 household contacts of 39 AIDS patients. These contacts did not interact with the patient sexually, but did share household items and facilities for a median of 22 months. The study indicated that household contacts are at little or no risk of infection.

5. O'Brien, *Discrimination: The Difference with AIDS*, 6 J. CONTEMP. HEALTH L. & POL'Y. 93 (1990). Although not focusing on the family law implications of AIDS, the author does devote some attention to the changing American definition of the family, society's view of gay family units and the effects of the AIDS epidemic on the image of the gay family.

6. Comment, *Associates of Persons with AIDS: What are Their Rights?*, 57 UMKC L. REV. 559 (1989). The author examines how the Rehabilitation Act of 1973, state handicap discrimination laws and the U.S. Constitution apply to prevent discrimination against the family and other associates of HIV-infected individuals in the areas of housing, employment and schools.

### *Tort Liability*

1. Baruch, *AIDS in the Courts: Tort Liability for the Sexual Transmission of Acquired Immune Deficiency Syndrome*, 22 TORT INS. L.J. 165 (1987). The author examines obstacles to bringing suit for the sexual transmission of AIDS, the possible bases for a tort cause of action in negligence, battery, negligent misrepresentation, deceit and infliction of emotional distress. The possible defenses to such causes of action are illegality, consent, assumption of the risk, contributory negligence, right to privacy, the statute of limitations and inter-spousal immunity. Brief attention is also paid to a doctor's liability for failure to warn third parties.

2. D. Hermann, *Tort Law*, in LEGAL ASPECTS OF AIDS ch. 3 (D. Hermann & W. Schurgin eds. 1991). The chapter discusses liability related to each of the following areas: use of contaminated blood or blood products, sexual transmission of HIV, AIDS-related emotional distress, defamation or invasion of privacy due to disclosure of HIV status, transmission of HIV due to drug use and perinatal transmission. The special problems posed by statutes of limitations or those that arise in determining causation are also considered.

3. K. KELLY, *Negligence and Intentional Torts*, in AIDS AND THE LAW ch. 8 (W. Dornette ed. 1987). The author examines bases for imposition of tort liability for HIV transmission and defense bases

for liability for releasing or not releasing AIDS information and the practical problems that might be encountered in bringing suit.

4. Schwartz, *Liability for the Transmission of AIDS and Herpes*, 1987 ANN. SURV. AM. L. 523. The author discusses theories of tort liability based on negligence, fraudulent misrepresentation, battery and intentional infliction of emotional distress and the defenses of inter-spousal immunity, consent, illegality, assumption of the risk, and contributory and comparative negligence. Liability for transmission of HIV by transfusion is also discussed. The use of statutes prohibiting the spread of venereal disease to support a finding of negligence and statutes which make it a criminal act to expose a person to the possibility of HIV infection are also examined.

5. Comment, *AIDS: A Legal Epidemic*, 17 AKRON L. REV. 717 (1984). Much of the article is devoted to tort liability for transmission of HIV. Some attention is also paid to suits that involve, in whole or in part, a fear of contracting HIV, e.g., termination of child visitation rights of a possibly HIV-positive parent, employment discrimination, etc.

6. Comment, *AIDS — Liability for Negligent Sexual Transmission*, 18 CUMB. L. REV. 691 (1988). The author examines liability based on a negligence theory and the defenses of illegality, comparative/contributory negligence, assumption of the risk and the statute of limitations.

7. Comment, *Tort Liability for AIDS?* 24 HOUS. L. REV. 957 (1987). The author examines theories of tort liability based on negligence, deceit and assault and battery and the possible defenses of contributory negligence, assumption of the risk, illegality and consent.

8. Comment, *Viability of Negligence Actions for Sexual Transmission of the Acquired Immune Deficiency Syndrome Virus*, 17 CAP. U. L. REV. 101 (1987). The author concludes that a cause of action based in negligence for transmission of HIV is viable.

9. Comment, *You Never Told Me . . . You Never Asked; Tort Liability for the Sexual Transmission of AIDS*, 91 DICK. L. REV. 529 (1986). The author examines battery, deceit and negligence as bases for liability for sexual transmission and concludes that each of these could provide a cause of action. Attention is also paid to assumption of the risk, comparative or contributory negligence, and the statute of limitations as possible defenses.

10. Note, *Establishing Relief for the Most Innocent of All AIDS Victims: Liability for Perinatal Transmission of AIDS*, 28 J. FAM. L. 271 (1989-90). The author discusses the parent-child immunity doctrine, analogizes tort liability for perinatal transmission to tort liability for infliction of venereal disease, and considers problems that may occur when collecting a judgment. The author concludes that

the courts should permit perinatally infected infants to recover damages from their mothers.

11. Note, *Negligence as a Cause of Action for Transmission of AIDS*, 19 U. TOL. L. REV. 923 (1988). The author discusses each of the elements of a negligence analysis and the defenses of assumption of the risk and comparative or contributory negligence.

12. Note, *Standards of Conduct, Multiple Defendants, and Full Recovery of Damages in Tort Liability for the Transmission of Human Immunodeficiency Virus*, 18 HOFSTRA L. REV. 957 (1989). The author examines a negligence claim against a defendant who was unaware that he/she was HIV-infected at the time that he/she infected the plaintiff. He pays particular attention to the standard of care that could be applied to a defendant who has engaged in high risk activity, the applicability of the alternative liability rule where there are several possible defendants, and special considerations that could be brought to bear on statute of limitations questions. He offers a discussion of the defenses of assumption of the risk, contributory negligence, comparative negligence and illegality. He also considers privacy and equal protection issues that might be raised.

13. Note, *To Have and to Hold: Tort Liability for the Interspousal Transmission of AIDS*, 23 NEW ENG. L. REV. 887 (1988-89). The article examines each of the following legal bases for imposition of tort liability: fraudulent misrepresentation, battery, intentional infliction of emotional distress and negligence. It explores the following possible defenses: consent, the statute of limitations, interspousal immunity, failure to join the tort action in a divorce proceeding and the right to privacy. Some attention is also paid to considerations that come into play in making the damages award.

14. Note, *Tort Liability for the Transmission of the AIDS Virus: Damages for Fear of AIDS and Prospective AIDS*, 45 WASH. & LEE L. REV. 185 (1988). The author maintains that the transmission of HIV is in itself a physically injurious act, whether or not any measurable health impairment results. In addition, an HIV-infected individual should be able to recover damages for mental distress from fear that there will be future HIV-related health problems.

## PART II. DATABASES, CURRENT AWARENESS SERVICES AND BIBLIOGRAPHIES

### *Databases*

On-line databases are available to provide the researcher with information about AIDS/HIV and the legal aspects of the disease. If a researcher does not subscribe to a database, he/she should contact a law, university or public library in his/her area to determine

if that library searches the database(s) for the public—many do. Another route of access may be through the database producer itself—some routinely do searches for people who call or write in requests.

We have compiled lists of AIDS-related and general medical and newspaper databases should prove to be good sources of current information. The AIDS and medical databases provide access to medical, epidemiological and legal sources of information about the disease. The general newspaper databases provide a means of tracking litigation and keeping current on important AIDS-related developments around the country and the world.

#### *AIDS Databases:*

1. AIDS Abstracts from the Bureau of Hygiene and Tropical Diseases.<sup>8</sup> Produced by the British Bureau of Hygiene and Tropical Diseases, coverage includes medical, public health and social aspects of the disease. It provides abstracts of literature published from 1983 to date with monthly updating. The database is commercially available through BRS Information Technologies.<sup>9</sup>
2. AIDS Knowledge Base from San Francisco General Hospital and the University of California, San Francisco.<sup>10</sup> The AIDS Knowledge Base attempts to be a comprehensive information source for all aspects of AIDS. It provides access to the medical, psychological, sociological, and legal literature in full text. Its coverage begins in 1986 and is updated monthly. It is produced by the Massachusetts Medical Society and made available commercially through BRS.<sup>11</sup>
3. AIDSLINE.<sup>12</sup> Created in 1988, the National Library of Medicine's ("N.L.M.") AIDSLINE database contains references to scientific articles about AIDS from 1980 to the present. It includes references from other N.L.M. databases: MEDLINE (a general medical bibliographic database), the Health Planning and Administration file, and CANCERLIT. It can be searched through GRATE-

---

8. BRS Information Technologies, AIDS Abstracts from Bureau of Hygiene and Tropical Diseases. This database is available through BRS Information Technologies, 800 W. Park Dr., McLean, VA 22102; phone: 800-955-0906.

9. BRS INFORMATION TECHNOLOGIES, BRS DATABASE CATALOG 13 (1990) [hereinafter BRS DATABASE CATALOG].

10. BRS Information Technologies, AIDS Knowledge Base from San Francisco General Hospital and The University of California, San Francisco. For further information, contact: BRS Information Technologies at address and phone number listed *supra* note 8.

11. BRS DATABASE CATALOG, *supra* note 9, at 13.

12. National Library of Medicine, AIDSLINE. For further information, contact: MEDLARS Service Desk, 8:30 a.m. to 5:00 p.m. E.S.T., Monday through Friday, 800-638-8480 or 301-496-6193, or write to: MEDLARS Management Section, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894.

FUL MED microcomputer-based software that provides a user-friendly interface. The software is available through the National Library of Medicine.<sup>13</sup>

4. ABA Disability Law Network, AIDS Legal Research Database.<sup>14</sup> The database contains information included in the *Mental and Physical Disability Law Reporter* from 1976 to date as well as abstracts of pleadings and briefs in groundbreaking court cases. Materials from the Reporter include citations to and descriptions of cases and statutes as well as original articles. It is produced by the American Bar Association Commission on the Mentally Disabled with assistance from the Mental Health Policy Resource Center and the National Institute of Mental Health. At present, the database is searched for the public by A.B.A. personnel.<sup>15</sup>

5. Combined Health Information Database, AIDS Education Subfile.<sup>16</sup> Produced by BRS, this database provides full-text access to educational materials on AIDS of interest to health professionals and AIDS patients. Coverage includes both books and articles published from 1987 to date.<sup>17</sup>

6. Comprehensive Core Medical Library, AIDS subset.<sup>18</sup> Produced by BRS, this database provides full-text access to articles about the medical aspects of AIDS from more than seventy journals. The database is updated weekly.<sup>19</sup>

7. Computerized AIDS Information Network (CAIN).<sup>20</sup> CAIN is produced by the Los Angeles Gay and Lesbian Community Service Center in partnership with Delphi, a full-service consumer information network, and the State of California Department of Health Services. CAIN'S objective is to provide up-to-date information on all aspects of AIDS/HIV. It provides access to abstracts of over

---

13. The Nat'l Library of Medicine, *Search Strategy*, 3 AIDS BIBLIOGRAPHY (July 1990) (prepared by K. Patrias).

14. American Bar Association, ABA Disability Law Network, AIDS Legal Research Database. For further information, contact: American Bar Association Commission on the Mentally Disabled, 1800 M Street, N.W., Washington, D.C. 20036; phone: 202-331-2240.

15. 13 MENTAL & PHYSICAL DISABILITY L. REP. 10 (1989); telephone interview with Chris Tiernan (Nov. 15, 1990).

16. BRS Information Technologies, Combined Health Information Database, AIDS Education Subfile. For further information, contact: BRS Information Technologies at the address and phone number listed *supra* note 8.

17. BRS DATABASE CATALOG, *supra* note 9, at 17.

18. BRS Information Technologies, Comprehensive Core Medical Library, AIDS subset. For further information, contact: BRS Information Technologies at the address and phone number listed *supra* note 8.

19. BRS DATABASE CATALOG, *supra* note 9, at 18.

20. For further information, contact: Systems Manager, CAIN, 1213 N. Highland Ave., Los Angeles, CA 90038; phone: 213-464-7400, ext. 450.

6,000 articles from periodicals in all disciplines.<sup>21</sup>

8. MEDLINE References on AIDS.<sup>22</sup> Medline is the most wide-ranging resource available for accessing medical literature published in the United States or abroad. It covers all aspects of medicine. The database is produced by the National Library of Medicine and is commercially available through BRS. Medline References on AIDS is a subset of Medline. It covers clinical, research, epidemiologic and health policy aspects of the disease. It includes abstracts of literature published from 1983 to date and is updated on a semi-monthly basis.<sup>23</sup>

9. National AIDS Information Clearinghouse.<sup>24</sup> This database is produced by the U.S. Department of Health and Human Services and the Centers for Disease Control (CDC). It provides access to AIDS reference and educational materials that include U.S. Public Health Service brochures, statistical data, articles on AIDS from CDC publications such as *HIV/AIDS Surveillance* and the *Morbidity and Mortality Weekly Report*, information on AIDS organizations and services, and unpublished information provided by hospitals and community organizations not usually available in libraries. The service is free. The Clearinghouse staff performs the searches.<sup>25</sup>

#### *News and Medical Databases:*

Databases that cover news events can be useful to attorneys and other AIDS researchers in that they enable tracking of law suit filings and the identification of relevant background information. General medical databases can be used to supplement the information obtained from the AIDS-specific medical databases discussed above.

Key news and medical databases include:

1. Courier Plus.<sup>26</sup> This database is available through DIALOG Information Services. It indexes and abstracts more than 300 peri-

21. CAIN, TURNING WORDS INTO ACTION (undated six-page brochure distributed by CAIN); telephone interview with Roberta Wilson, Systems Manager of CAIN (Nov. 15, 1990).

22. BRS Information Technologies, MEDLINE References on AIDS. For further information, contact: BRS Information Technologies, *supra* note 8.

23. BRS DATABASE CATALOG, *supra* note 9, at 29.

24. U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES AND CENTERS FOR DISEASE CONTROL, NATIONAL AIDS INFORMATION CLEARINGHOUSE. For further information, contact: National AIDS Information Clearinghouse, P.O. Box 6003, Rockville, MD 20850; phone: 800-458-5231.

25. Telephone interview with National AIDS Information Clearinghouse research specialists (Nov. and Dec., 1990).

26. DIALOG, Courier Plus, file 484. For further information, contact: DIALOG Information Services, Marketing Dept., 3460 Hillview Ave., Palo Alto, CA 94304; phone: 800-334-2564.

odicals and 25 regional, national, and international newspapers. Updating is done on a weekly basis. Coverage begins January, 1989.<sup>27</sup>

2. DataTimes.<sup>28</sup> This database offers full-text coverage of both national and local American newspapers as well as of more than half a dozen wire services. It is updated daily.<sup>29</sup>

3. MEDIS.<sup>30</sup> Produced by Mead Data Central, the MEDIS Service offers full-text access to selected medical journals, texts and newsletters. In addition, MEDLINE, the comprehensive bibliographic medical database produced by the National Library of Medicine, is available as a MEDIS library. Search logic is the same as that used for LEXIS.<sup>31</sup>

4. National Newspaper Index.<sup>32</sup> This database is an index to five national newspapers and three news wires. Produced by Information Access Company, it covers the following newspapers from 1979 to date: *New York Times*, *Wall Street Journal* and *Christian Science Monitor*; two other newspapers, the *Los Angeles Times* and the *Washington Post*, are indexed from 1982 to date. Updating is done on a monthly basis. It is available through both DIALOG and BRS.<sup>33</sup>

5. NEWSEARCH.<sup>34</sup> Daily indexing of more than 1,700 newspapers, magazines and periodicals is provided by this database. It is produced by Information Access Company and is available through DIALOG.<sup>35</sup>

6. NEWSNET.<sup>36</sup> This database provides full-text access to the comprehensive *AIDS Weekly* (formerly *CDC AIDS Weekly*) and other newsletters that may offer information about medical and legal as-

---

27. DIALOG DATABASE CATALOG 35-36 (1991).

28. DATATIMES: LIST OF DATABASES & SOURCES (Aug. 1990).

29. For further information, contact: Datatimes, 14000 Quail Springs Parkway, Suite 450, Oklahoma City, OK 73134; phone: 405-751-6400.

30. LEXIS/NEXIS, Library: Medis. This database is provided through LEXIS/NEXIS, Mead Data Central, 9443 Springboro Pike, P.O. Box 933, Dayton, OH 45401; phone: 800-543-6862.

31. LEXIS/NEXIS LIBRARY CONTENTS AND ALPHABETICAL LIST 85-89 (Summer 1990). For a fuller description of the databases offered through the MEDIS Service, see Kauffman, *Electronic Databases in Legal Research: Beyond LEXIS and WESTLAW*, 13 RUTGERS COMPUTER & TECH. L.J. 73, 77-78 (1987).

32. DIALOG, National Newspaper Index, file 111.

33. DIALOG DATABASE CATALOG 61 (1991); see also BRS DATABASE CATALOG, *supra* note 9, at 31. For further information, contact either DIALOG Information Services, *supra* note 26 or BRS Information Technologies, *supra* note 8.

34. DIALOG, NEWSEARCH, file 211.

35. DIALOG DATABASE CATALOG 61 (1991). For further information, contact: DIALOG Information Services, *supra* note 26.

36. Independent Publications, NEWSNET. This database is available from, NEWSNET, 945 Haverford Road, Bryn Mawr, PA 19010; phone: 800-345-1301 or 215-527-8030.

pects of AIDS. Full-text access is also provided to more than a dozen world-wide newswires. NEWSNET also functions as a gateway to the VU/TEXT newspaper databases.<sup>37</sup>

7. NEXIS.<sup>38</sup> Produced by Mead Data Central, the databases of the NEXIS Service provide full-text access to major national newspapers such as the *New York Times*, *Washington Post*, *Christian Science Monitor* and *Los Angeles Times* as well as to national legal newspapers such as the *National Law Journal*, *American Lawyer* and *Legal Times*. Other newspaper files as well as wire service, news magazine and newsletter files are available as well. NEXIS uses the same search logic as LEXIS.<sup>39</sup>

8. Papers.<sup>40</sup> This database currently provides daily full-text access from the mid-1980's to date for five of the newspapers available through DIALOG: the *Chicago Tribune*, *Los Angeles Times*, *Philadelphia Inquirer*, *San Jose Mercury News* and *Washington Post*. DIALOG plans to add other newspapers to produce what will eventually be a large newspaper database.<sup>41</sup>

9. VU/TEXT.<sup>42</sup> Produced by Knight-Ridder, VU/TEXT provides full-text access to sixty-nine national and local newspapers as well as to numerous wire services. It is updated daily. Since 1985, WESTLAW has provided gateway service to VU/TEXT to its subscribers.<sup>43</sup>

### Current Awareness Services

Current awareness services provide a convenient means of keeping up-to-date on significant developments in specialized subject areas. We have compiled lists of loose-leaf services, newspapers and periodicals that are of unique interest to those researching any aspect of AIDS and family law. Our criterion for inclusion was that the service provide timely reporting of new developments on AIDS and the law, or that it provide updates on the medical, epidemiological, or social aspects of AIDS that would be of interest to the legal researcher.

---

37. NEWSNET: PROFILE (1990); For a list of NEWSNET databases, see NEWSNET Action Letter (Nov. 1990). See *infra* notes 42-43 and accompanying text for a discussion of VU/TEXT.

38. Mead Data Central, LEXIS/NEXIS, NEXIS. For more information on Mead Data Central, see *supra* note 30.

39. LEXIS/NEXIS Library Contents and Alphabetical List 90-124 (Summer 1990). For further information, contact Mead Data Central, *supra* note 30.

40. DIALOG, Papers.

41. DIALOG DATABASE CATALOG 69-70 (1991). For further information, contact DIALOG Information Services, *supra* note 26.

42. Knight-Rider, VU/TEXT. For further information, contact: VU/TEXT Information Services, 325 Chestnut St., Suite 1300, Philadelphia, PA 19106; phone: 800-258-8080 or 215-574-4421.

43. VU/TEXT USER GUIDE (1986 & supps.).

*Loose-leaf Services:*

1. *AIDS Law and Litigation Reporter*. Published by University Publishing Group, this service collects topically arranged citations under twenty-four subject headings, to AIDS-related state and federal legislation and court opinions. The beginning date of coverage is 1980. It is updated by quarterly inserts and a monthly newsletter.<sup>44</sup>

2. *Family Law Reporter*: This service provides summaries of significant cases and legislation dealing with all aspects of family law on a national basis. It is published weekly by the Bureau of National Affairs.<sup>45</sup>

*Newspapers:*

General newspapers and legal newspapers are, of course, good sources of current information about AIDS and are well-known to most legal researchers.<sup>46</sup> Newspaper sources that are perhaps less familiar to researchers include the newspapers oriented toward the Lesbian and Gay community, which often include articles on new AIDS litigation, legislation and other developments. We believe that the following national and regional "Gay" newspapers may be of particular interest to those tracking AIDS legal developments:

1. *The Advocate*. Of particular interest to the legal researcher are the "Newsbriefs" and "AIDS Crisis Update" columns. This national "Gay" newspaper is published bi-weekly.<sup>47</sup>

2. *Gay Community News*. The "Newsnotes" column of this Boston-based weekly newspaper often includes material on AIDS and the law.<sup>48</sup>

3. *New York Native*. Of special interest in this bi-weekly paper is "The Law" column.<sup>49</sup>

4. *Washington Blade*. This District of Columbia-based weekly newspaper is particularly strong in providing coverage of Federal

---

44. For further information, contact: University Publishing Group, 107 E. Church St., Frederick, MD 21701; phone: 800-654-8188.

45. For further information, contact: Bureau of National Affairs, 1231 25th St., N.W., Washington, D.C. 20037; phone: 800-372-1033.

46. Legal newspapers that often include articles on important new AIDS legal developments include *National Law Journal*, *Legal Times*, *New York Law Journal*, *New Jersey Lawyer*, *Los Angeles Daily Journal*, and *Chicago Daily Law Bulletin*.

47. For further information, contact the publisher: Liberation Publications, 6922 Hollywood Blvd., 10th fl., Hollywood, CA 90028; phone: 213-871-1225.

48. Published by Bromfield Street Educational Foundation, 167 Tremont St., 5th fl. Boston, MA 02111; phone: 617-426-4469.

49. Published by That New Magazine, Inc., P.O. Box 1475, Church Street Station, New York, NY 10008; phone: 212-925-8021.

legislative activity. It includes an "AIDS Digest" column.<sup>50</sup>

*Periodicals:*

1. *AIDS & Public Policy Journal*. This quarterly publication includes substantive articles on new legislation and noteworthy cases. Each issue focuses on an important public health and policy issue at the intersection of law, medicine, business and ethics.<sup>51</sup>
2. *AIDS Legal Council of Chicago Newsletter*. Practice-oriented feature articles and summaries of cases in which Council members are involved are included in this bi-monthly newsletter.<sup>52</sup>
3. *AIDS Literature & News Review*. This monthly newsletter abstracts articles about AIDS from 500 medical, legal, public policy and social science journals and newsletters. Its emphasis is on social science implications of the disease.<sup>53</sup>
4. *AIDS Litigation Reporter*. Summaries of newly reported judicial decisions are offered by this semi-monthly newsletter.<sup>54</sup>
5. *AIDS Policy & Law*. This bi-weekly newsletter summarizes newly passed legislation and newly reported decisions on a national basis.<sup>55</sup> It is also available in electronic format through LEXIS.<sup>56</sup>
6. *AIDS Update*. This newsletter summarizes recent legislation, cases and other legal news. It is published monthly by Lambda Legal Defense and Education Fund.<sup>57</sup>
7. *AIDS Weekly*. Medical and therapy information as well as news, research and meetings reports and reviews of significant periodical articles from all fields are provided by this weekly newsletter (formerly *CDC AIDS Weekly*). Its emphasis is medical with some legal coverage. It is available on NEWSNET as well as in hard copy.<sup>58</sup> Its current title became effective in 1991.
8. *The Exchange*. Published by the National Lawyers Guild AIDS Network, this quarterly newsletter provides general legal informa-

---

50. Published by Washington Blade, Inc., 930 F St., N.W., suite 315, Washington, D.C. 20004; phone: 202-347-2038.

51. Published by University Publishing Group. See *supra* note 44 for address and phone number.

52. Published by AIDS Legal Council of Chicago, 220 S. State St., suite 2030, Chicago, IL 60604; phone: 312-427-8990.

53. Published by University Publishing Group. See *supra* note 44 for address and phone number.

54. Published by Andrews Publications, P.O. Box 1000, Westtown, PA 19395; phone: 800-345-1101.

55. Published by Buraff Publications, 1350 Connecticut Ave., N.W., suite 1000, Washington, D.C. 20036; phone: 202-862-0990.

56. *LEXIS/NEXIS Library Contents and Alphabetical Guide* 37 (Summer 1990).

57. For further information, contact Lambda Legal Defense and Education Fund, 666 Broadway, 12th floor, New York, NY 10012; phone: 212-995-8585.

58. For further information, contact: AIDS Weekly, P.O. Box 5528, Atlanta, GA 30307; phone: 800-633-4931.

tion on AIDS. Each issue focuses on a different topic.<sup>59</sup>

9. *Intergovernmental AIDS Reports*. This newsletter summarizes and analyzes trends in state legislation on AIDS. It is published monthly by the AIDS Policy Center of George Washington University. (Former title: *State AIDS Reports*.)<sup>60</sup>

10. *Lesbian and Gay Law Notes*. Published by the Bar Association for Human Rights of Greater New York, this monthly newsletter summarizes important new legislation and case law of interest to the Gay community.<sup>61</sup>

11. *Mental and Physical Disability Law Reporter*. This bimonthly journal produced by the American Bar Association Commission on the Mentally Disabled summarizes important legislation and digests case law in all areas of disability law, including AIDS. It also includes original substantive articles.<sup>62</sup>

### *Bibliographies*

Bibliographies may be extremely helpful in assisting the legal researcher to locate additional periodical articles and books of interest. This selective list of recent legal, medical and general bibliographies includes materials that will be of interest to those researching any aspect of AIDS and the law or who wish to locate materials on the medical, scientific or social implications of the disease:

1. AIDS 1986-. A part of Oryx Press's AIDS Bibliography series, this publication attempts to collect and evaluate significant articles from all types of periodicals on the scientific, social and ethical aspects of AIDS. Volumes produced to date include AIDS 1986, AIDS 1987, AIDS 1988, PARTS 1-2, and AIDS 1989, PT. 1.

2. AIDS AND PERSONS WITH DEVELOPMENTAL DISABILITIES: THE LEGAL PERSPECTIVE (1989). This work includes a 12-page selective unannotated bibliography on all aspects of AIDS and the law. (Published by the American Bar Association Commission on the Mentally Disabled and the Center on Children and the Law.)

3. AIDS AND THE COURTS (C. Abt & K. Hardy eds. 1990). This work on all aspects of AIDS and the law includes a comprehensive legal

---

59. For further information, contact: National Lawyers Guild AIDS Network, 558 Capp St., San Francisco, CA 94110; phone: 415-824-8884.

60. For further information, contact: AIDS Policy Center, Inter-Governmental Health Policy Project, George Washington University, 2011 I St., N.W., suite 200, Washington, D.C. 20006; phone: 202-872-1445.

61. For further information, contact the Bar Association for Human Rights of Greater New York, P.O. Box 1899, Grand Central Station, New York, NY 10163.

62. For further information, contact: Mental and Physical Disability Law Reporter, American Bar Association, 1800 M St., N.W., Washington, D.C. 20036; phone: 202-331-2240.

bibliography compiled by Arthur S. Leonard that includes articles and books published before January 1, 1990.

4. AIDS BIBLIOGRAPHY. This publication provides subject access to the AIDS medical literature added to the National Library of Medicine's AIDSLINE, CATLINE and AVLINE databases. It is published monthly by the Reference Section of the National Library of Medicine from 1988 to date.

5. Jacobs, *Acquired Immune Deficiency Syndrome (AIDS); A Selective Bibliography of Legal, Social and Medical Aspects*, 42 REC. A.B. CITY N.Y. 152 (1987). This unannotated bibliography includes both books and articles. The author has updated the bibliography in the following volumes: 43 REC. A.B. CITY N.Y. 94, 760 (1988); 44 REC. A.B. CITY N.Y. 559 (1989); and 45 REC. A.B. CITY N.Y. 152 (1990).

6. Kirby & Harvell, *U.S. Government Information Policy and the AIDS Epidemic*, 16 GOV'T. PUBLICATIONS REV. 157 (1989). An appendix to this article includes an eight-page unannotated list of U.S. Government Printing Office publications on AIDS through May 1988.

7. LEGAL BIBLIOGRAPHY INDEX. This index provides subject access to legal bibliographies either published separately or as parts of other works. AIDS is used as a subject heading. It has been published annually since 1978 and is available as cumulations for 1978-1982 and 1983-1987. (Currently published by Lance Dickson, 5277 Yorkton Way, San Jose, CA 95130.)

8. A. LEONARD, AIDS LEGAL BIBLIOGRAPHY (1989). Number thirty-three in the University of Texas Tarlton Law Library Legal Bibliography Series, this comprehensive bibliography lists articles that have appeared in law reviews, bar journals, legal newspapers and some books from 1983 through May 16, 1989.

9. A. LEONARD, *AIDS Legal Bibliography*, in LEGAL ASPECTS OF AIDS ch. 14 (D. Hermann & W. Schurgin eds. 1991). This chapter provides a comprehensive list of articles in law reviews, bar journals, legal newspapers and some books that have appeared from 1983 through May 1990. Also included is a list of other AIDS legal bibliographies.

11. SEXUAL ORIENTATION AND THE LAW: A SELECTIVE BIBLIOGRAPHY ON HOMOSEXUALITY AND THE LAW, 1969 - 1988 (1988). This work includes a section on AIDS that lists general works and specialized materials dealing with privacy and constitutional rights, AIDS and the workplace, and tort liability. (Published by the American Association of Law Libraries, Contemporary Social Problems Special Interest Section, Standing Committee on Lesbian and Gay Issues.)

